



General Assembly

February Session, 2012

Amendment

LCO No. 5309

HB0514505309SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

SEN. FRANTZ, 36th Dist.

SEN. BOUCHER, 26th Dist.

To: Subst. House Bill No. 5145

File No. 602

Cal. No. 445

**"AN ACT CONCERNING THE RECOMMENDATIONS OF THE
SENTENCING COMMISSION REGARDING THE CLASSIFICATION
OF UNCLASSIFIED MISDEMEANORS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subdivision (5) of subsection (a) of section 31-222 of the
4 general statutes is repealed and the following is substituted in lieu
5 thereof (*Effective from passage*):

6 (5) No provision of this chapter, except section 31-254, shall apply to
7 any of the following types of service or employment, except when
8 voluntarily assumed, as provided in section 31-223:

9 (A) Service performed by an individual in the employ of his son,
10 daughter or spouse, and service performed by a child under the age of
11 eighteen in the employ of his father or mother;

12 (B) Service performed in the employ of the United States
13 government, any other state, any town or city of any other state, or any
14 political subdivision or instrumentality of any of them; except that, to
15 the extent that the Congress of the United States permits states to
16 require any instrumentalities of the United States to make
17 contributions to an unemployment fund under a state unemployment
18 compensation law, all of the provisions of this chapter shall be
19 applicable to such instrumentalities and to services performed for such
20 instrumentalities; provided, if this state is not certified for any year by
21 the Secretary of Labor under Section 3304 of the Federal Internal
22 Revenue Code, the contributions required of such instrumentalities
23 with respect to such year shall be refunded by the administrator from
24 the fund in the same manner and within the same period as is
25 provided in sections 31-268, 31-269, 31-270 and 31-271 with respect to
26 contributions erroneously collected;

27 (C) Service with respect to which unemployment compensation is
28 payable under an unemployment compensation plan established by an
29 Act of Congress, provided the administrator is authorized to enter into
30 agreements with the proper agencies under such Act of Congress, to
31 provide reciprocal treatment to individuals who have, after acquiring
32 potential rights to benefits under this chapter, acquired rights to
33 unemployment compensation under such Act of Congress, or who
34 have, after acquiring potential rights to unemployment compensation
35 under such Act of Congress, acquired rights to benefits under this
36 chapter, and provided further, in computing benefits the administrator
37 shall disregard all wages paid by employers who fall within the
38 definition of "employer" in Section 1(a) of the Federal Railroad
39 Unemployment Insurance Act;

40 (D) Service performed in this state or elsewhere with respect to
41 which contributions are required and paid under an unemployment
42 compensation law of any other state;

43 (E) Service not in the course of the employer's trade or business
44 performed in any calendar quarter by an employee, unless the cash

45 remuneration paid for such service is fifty dollars or more and such
46 service is performed by an individual who is regularly employed by
47 such employer to perform such service. For purposes of this
48 subparagraph, an individual shall be deemed to be regularly
49 employed by an employer during a calendar quarter only if (i) on each
50 of some twenty-four days during such quarter such individual
51 performs for such employer for some portion of the day service not in
52 the course of the employer's trade or business; or (ii) such individual
53 was so employed by such employer in the performance of such service
54 during the preceding calendar quarter;

55 (F) Service performed in any calendar quarter in the employ of any
56 organization exempt from income tax under Section 501(a) of the
57 Internal Revenue Code or under Section 521 of said code excluding
58 any organization described in Section 401(a) of said code, if the
59 remuneration for such service is less than fifty dollars;

60 (G) Service performed in the employ of a school, college, or
61 university if such service is performed (i) by a student who is enrolled
62 and is regularly attending classes at such school, college or university,
63 or (ii) by the spouse of such a student, if such spouse is advised at the
64 time such spouse commences to perform such service, that (I) the
65 employment of such spouse to perform such service is provided under
66 a program to provide financial assistance to such student by such
67 school, college or university, and (II) such employment will not be
68 covered by any program of unemployment insurance;

69 (H) Service performed as a student nurse in the employ of a hospital
70 or a nurses' training school chartered pursuant to state law by an
71 individual who is enrolled and is regularly attending classes in such
72 nurses' training school, and service performed as an intern in the
73 employ of a hospital by an individual who has completed a four years'
74 course in a medical school chartered or approved pursuant to state
75 law;

76 (I) Service performed by an individual under the age of eighteen in

77 the delivery or distribution of newspapers or shopping news, not
78 including delivery or distribution to any point for subsequent delivery
79 or distribution;

80 (J) Service performed by an individual who is enrolled, at a
81 nonprofit or public educational institution which normally maintains a
82 regular faculty and curriculum and normally has a regularly organized
83 body of students in attendance at the place where its educational
84 activities are carried on, as a student in a full-time program, taken for
85 credit at such institution, which combines academic instruction with
86 work experience, if such service is an integral part of such program,
87 and such institution has so certified to the employer, except that this
88 subparagraph shall not apply to service performed in a program
89 established for or on behalf of an employer or group of employers;

90 (K) Service performed by an individual as an insurance agent, other
91 than an industrial life insurance agent, and service performed by an
92 individual as a real estate salesperson, if all such service is performed
93 for remuneration solely by way of commission;

94 (L) Service performed in the employ of a hospital, if such service is
95 performed by a patient of the hospital, as defined in subsection (h) of
96 this section;

97 (M) Service performed by an individual in the employ of any town,
98 city or other political subdivision, provided such service is performed
99 in lieu of payment of any delinquent tax payable to such town, city or
100 other political subdivision;

101 (N) Service performed by an individual as an outside sales
102 representative of a for-profit travel agency if substantially all of such
103 service is performed outside of any travel agency premises, and all
104 such service is performed for remuneration solely by way of
105 commission. For purposes of this subparagraph, an "outside sales
106 representative" means an individual whose services to a for-profit
107 travel agency are performed under such travel agency's Airlines
108 Reporting Corporation accreditation, or the International Airlines

109 Travel Agent Network endorsement; [and]

110 (O) Service performed by the operator of an escort motor vehicle,
111 for an oversize vehicle, overweight vehicle or a vehicle with a load
112 traveling upon any Connecticut highway pursuant to a permit
113 required by section 14-270, and the regulations adopted pursuant to
114 said section, provided the following conditions are met:

115 (i) The service is provided by an individual operator who is
116 engaged in the business or trade of providing such escort motor
117 vehicle;

118 (ii) The operator is, and has been, free from control and direction by
119 any other business or other person in connection with the actual
120 performance of such services;

121 (iii) The operator owns his or her own vehicle, and statutorily
122 required equipment, and exclusively employs this equipment in
123 providing such services; and

124 (iv) The operator is treated as an independent contractor for all
125 purposes, including, but not limited to, federal and state taxation,
126 workers' compensation, choice of hours worked and choice to accept
127 referrals from multiple entities without consequence; and

128 (P) Service performed in intrastate or interstate commerce by the
129 owner operator of a motor vehicle or motor vehicles who transports
130 property by motor vehicle for compensation, provided the following
131 conditions are met:

132 (i) The operator owns the motor vehicle or holds it under a bona
133 fide lease arrangement, provided any lease arrangement, loan or loan
134 guarantee is not with the contracting entity, or any related entity, with
135 the exception of a lease arrangement with the contracting entity for the
136 use of a substitute motor vehicle to perform services in the event that
137 the operator's primary motor vehicle is being serviced or repaired;

138 (ii) Nothing in this subparagraph shall affect chapter 229;

139 (iii) The operator is responsible for substantially all of the principal
 140 operating costs of the motor vehicle, including, but not limited to,
 141 maintenance, fuel, repairs, supplies, vehicle insurance and personal
 142 expenses, provided the operator may be paid by the contracting entity
 143 for operating costs directly related to services rendered by the
 144 operator, including, but not limited to, tolls, permits, communication
 145 charges and loading fees;

146 (iv) The operator is responsible for supplying the necessary services
 147 to operate the motor vehicle;

148 (v) The operator's compensation is based on factors related to the
 149 work performed, including, but not limited to, mileage-based rates, a
 150 percentage of any schedule of rates, or by the hours or time expended
 151 in relation to actual performance of the contracted-for services;

152 (vi) The operator substantially controls the means and manner of
 153 performing services, which shall be evidenced by doing so in
 154 conformance with all state and federal requirements and specifications
 155 of the shipper; and

156 (vii) The operating agreement includes provisions that meet the
 157 conditions in clauses (i) to (v), inclusive, of this subparagraph; that the
 158 operator acknowledges the operator's status as an independent
 159 contractor and not an employee of the contracting entity; and that such
 160 operating agreement shall be presented to the Labor Department upon
 161 request."

This act shall take effect as follows and shall amend the following sections:

Sec. 501	<i>from passage</i>	31-222(a)(5)
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